

**From:** Ken Kennedy  
**To:** Microsoft ATR  
**Date:** 1/27/02 3:53pm  
**Subject:** Microsoft Settlement

To Whom It May Concern:

I am writing to comment on the proposed settlement of the US vs. Microsoft antitrust case.

I believe that there are many significant failures in the proposed settlement.

In general, I believe that it fails to significantly punish Microsoft in any way. The Findings of Fact are clear, and the Court of Appeals affirmed that Microsoft is liable under Sherman Act for illegally maintaining its monopoly by imposing licensing restrictions on OEMs, IAPs (Internet Access Providers), ISVs (Independent Software Vendors), and Apple Computer, by requiring ISVs to switch to Microsoft's JVM (Java Virtual Machine), by deceiving Java developers, and by forcing Intel to drop support for cross-platform Java tools.

I do not believe the the proposed settlement makes sense in a such a situation. Microsoft was WRONG; Microsoft BROKE THE LAW, and therefore...Microsoft gets to negotiate terms they find acceptable? This flies in the face of justice.

More specifically, I object to portions of section III, as they relate to API disclosure. Microsoft has already removed all business competitors (in some cases, using the aforementioned illegal tactics), leaving only volunteer projects and open-source software as viable alternatives. However Section III.J.2 would allow Microsoft to refuse to provide information due to failure to meet "reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business".

Open Source and Free Software is precisely NOT a business in and of itself, and could therefore easily be prevented by Microsoft from obtaining this information. However, these same Open Source and Free Software projects and volunteer groups are providing the best and most aggressive competition for Microsoft that exists presently.

It would be tragic for the government to allow Microsoft to use this proposed "remedy" as a weapon against the sort of competition that it is supposed to enable.

I appreciate your time in reviewing my comments.

Sincerely,

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